

**CITY OF SHORELINE
HEARING EXAMINER**

DECISION ON MOTION TO DISMISS APPEAL

APPELLANT: Maurice Burum

FILE NO.: 1998 01246

APPEAL: Appeal of Preliminary Approval of Short Plat Application SHSP 98032, File No. 1998-01246.

MOTION TO DISMISS: The Hearing Examiner considers the Shoreline Rules of Procedure and under Section 3, Resolution No. 130 may dismiss all or part of an appeal based on written arguments or may call for oral arguments. The appeal must be timely, contain required fees, and meet specific content criteria listed in Section 7 of Resolution No. 130.

Procedural History

Preliminary Approval of Short Plat Application SHSP98032; File Number 1998-01246, was given by Planning and Development Services Department, City of Shoreline on June 30, 1999.

The Notice of Decision on Short Plat Applications and Conditions of Preliminary Approval was issued by the City of Shoreline on June 30, 1999. In the Appeal Process section of this notice it indicated that written appeals may be submitted within 15 days or by 5:00 p.m. on July 15, 1999.

On July 15, 1999 Maurice Burum submitted a letter appealing the Preliminary Approval of the above referenced Short Plat. (Exhibit A)

On July 19, 1999, the City Attorney wrote to the appellant indicating that the appeal did not meet the content criteria of the City rules of procedure. He provided the appellant a copy of Section 7.4 of Resolution No. 130 and indicated that the notice of appeal could be supplemented with the necessary information within one week or the City would file to dismiss the appeal.

The City filed a Motion to Dismiss with the Hearing Examiner dated July 26, 1999 (Mailed to Hearing Examiner on July 28, 1999).

On July 29, 1999, a letter signed by Maurice Burum and dated July 26, 1999, was received in the City Clerk's office and was transmitted to the Hearing Examiner.

On July 10, 1999, the City Clerk received a Motion to Dismiss dated August 9, 1999, from the applicant K & C Construction, LLC. The reasons given were that the appeal was not timely and that it did not contain the required content elements of an appeal.

Findings:

1. The Notice of Decision sent out by the City on June 30, 1999 was in error in that the time period for submission of an appeal is 14 days.
2. The Appellants initial submission did not meet the time provisions of the City of Shoreline although it was submitted in accord with the timing listed in the City's Notice of Decision; and the content was not consistent with the rules of procedure for City of Shoreline Resolution No. 130.
3. The City's offer to allow an additional week to meet the content criteria does not appear to be consistent with City procedures.
4. The appellant's response to the extended time was not received in a timely manner and the City has also submitted a Motion to Dismiss.
5. The appellants first appeal submission does not in any way respond to the content criteria and the second submission primarily relates to a discussion of the City's response to comments submitted in November, 1998, and does not directly respond to the criteria required of an appeal:
 - a. How the appellant is specifically affected by or interested in the matter appealed;
 - b. Appellant's issues on appeal noting specific exceptions and objections to the decision or action being appealed; and,
 - c. The relief requested such as reversal or modification.
6. The Hearing Examiner has the authority under the City of Shoreline Rules of Procedure to make this decision based on the written information.

Conclusions:

1. The appellant has not submitted a timely appeal to either the initial response or to the extended time period that in itself may not have been valid.
2. The appellant's appeal letters do not meet the content criteria for an appeal as defined in the City's rules of procedure, Section 7.4 of Resolution No. 130.

DECISION:

Based on the above Findings and Conclusions, the Motions to Dismiss the Appeal of Maurice Burum of Short Plat Application No. SHSP98032, File Number 1998-01246. by the City of Shoreline and K & C Construction, LLC, applicant, are granted.

EXHIBITS:

1. City of Shoreline Application File through Notice of Decision and Preliminary Approval.
2. Appeal Letter, Maurice Burum received July 15, 1999.
3. City Attorney's response regarding content criteria dated July 19, 1999
4. City of Shoreline Motion to Dismiss the appeal, dated July 28, 1999
5. Second Appeal Letter, Maurice Burum dated July 26, 1999, received by City Clerk on July 29, 1999.
6. Motion to Dismiss from K & C Construction LLC received by City on August 10, 1999.

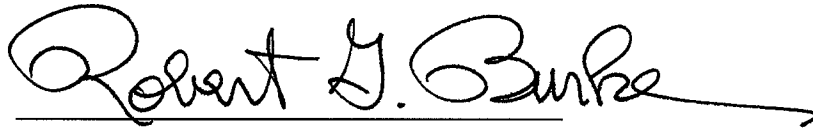
PARTIES OF RECORD ON APPEAL:

Maurice Burum, 2139 N. 171st, Shoreline, WA 98133

Samuel M. Jacobs for K & C Construction, LLC, Loucks, Lamb & Jacobs, 425 Pike Street #402,
Seattle, WA 98101

City of Shoreline: Ian R. Sievers, City Attorney; Sharon Mattioli, City Clerk; and Sarah Bohlen,
Planning and Development Services Department.

Entered this 16th day of August 1999. The decision of the Hearing Examiner shall be the final decision on any appeal.

A handwritten signature in black ink, reading "Robert G. Burke". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Robert G. Burke, Hearing Examiner